

JEFFREY LAMONT TAYLOR,

NO. C 06-2222 JW

Plaintiff(s),

## ORDER OF DISMISSAL

CORRECTIONAL OFFICER BRYANT,  
et al.,

Defendant(s).

20 Plaintiff initiated this civil rights suit on March 28, 2006. Pursuant to 28 U.S.C. section  
21 1915A, the Court must now screen the complaint.

22 Plaintiff essentially alleges that Defendants took personal property, including a photograph  
23 and legal documents. Defendants' actions do not rise to the level of a constitutional violation.  
24 Neither the negligent nor intentional deprivation of property states a due process claim under § 1983  
25 if the deprivation was random and unauthorized,. See Parratt v. Taylor, 451 U.S. 527, 535-44  
26 (1981) (state employee negligently lost prisoner's hobby kit), overruled in part on other grounds.

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1       Daniels v. Williams, 474 U.S. 327, 330-31 (1986); Hudson v. Palmer, 468 U.S. 517, 533 (1984)  
2 (intentional destruction of inmate's property). The availability of an adequate state post-deprivation  
3 remedy, e.g., a state tort action, precludes relief because it provides sufficient procedural due  
4 process. See Zinermon v. Burch, 494 U.S. 113, 128 (1990) (where state cannot foresee, and  
5 therefore provide meaningful hearing prior to, deprivation statutory provision for post-deprivation  
6 hearing or common law tort remedy for erroneous deprivation satisfies due process); King v.  
7 Massarweh, 782 F.2d 825, 826 (9th Cir. 1986) (same). California law provides such an adequate  
8 post-deprivation remedy. See Barnett v. Centoni, 31 F.3d 813, 816-17 (9th Cir. 1994) (citing Cal.  
9 Gov't Code §§ 810-895).<sup>1</sup> Therefore, Plaintiff's claim for deprivation of personal property is not  
10 cognizable under section 1983.

11        Accordingly, this action is DISMISSED with prejudice. The clerk shall terminate any  
12 pending motions. 

13 | Dated: May 8, 2006

prejudice. The clerk shall terminate an  
  
JAMES WARE  
United States District Judge

<sup>25</sup> 1 Nor is a prisoner protected by the Fourth Amendment against the seizure, destruction or  
26 conversion of his property. See Taylor v. Knapp, 871 F.2d 803, 806 (9th Cir.), cert. denied, 493  
U.S. 868 (1989).

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1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN MAILED TO:**

2 Jeffrey Lamont Taylor  
D41759  
3 D-2-125  
Salinas Valley State Prison  
4 P. O. Box 1060  
Soledad, Ca 93960-1060

5

6 **Dated: May 9, 2006**

7 **Richard W. Wieking, Clerk**

8 **By: /s/**  
9 **Melissa Peralta**  
**Courtroom Deputy**